

**NOT TO BE PUBLISHED**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)**

-----  
In re BLAKE B., a Person Coming  
Under the Juvenile Court Law.

C060748

THE PEOPLE,

(Super. Ct. No. JV127733)

Plaintiff and Respondent,

v.

BLAKE B.,

Defendant and Appellant.

Following a contested jurisdictional hearing, the Sacramento County Juvenile Court found that 13-year-old Blake B. (the minor) came within the provisions of Welfare and Institutions Code section 602 in that he drove a motor vehicle on a highway without a valid driver's license. (Veh. Code, § 12500, subd. (a).) An allegation that he violated the basic speed law (Veh. Code, § 22350) was dismissed in the interest of justice. The minor was adjudged a ward of the court and was committed to the care and custody of his father under supervision of the probation officer. The dispositional minute order states: "The minor was advised and understood the maximum term of confinement, to wit: [six] months."

On appeal, the minor contends the juvenile court erred by declaring a maximum term of physical confinement, and the stated term should be stricken. We shall affirm the judgment.

### **FACTUAL BACKGROUND**

The facts of the minor's offense are not at issue and may be briefly stated.

On December 28, 2007, Sacramento Police Officer Roman Murrietta observed that an automobile accident had occurred near an intersection in Sacramento. He observed an older gentleman standing outside of his car and the minor in the driver's seat of an older sport utility vehicle. Both vehicles had visible damage and fresh debris was on the road.

Officer Murrietta identified himself as a police officer. When he approached the minor, he noticed that the minor was "pretty catatonic" and scared. Community Service Officer Phillip Burnham arrived at the scene. When Burnham approached the minor, he was crying. Burnham questioned the minor at the scene. The minor's father arrived while Burnham was questioning him. The minor admitted to Burnham that he had been driving the car at the time of the accident and that he did not have a license.

### **DISCUSSION**

The minor contends, and the Attorney General effectively concedes, the juvenile court erred by declaring a maximum term of physical confinement because he was released to his parent's custody. The minor argues we should modify the dispositional

order by striking the stated maximum term. The Attorney General responds that the minor has suffered no prejudice and the maximum confinement order should stand. The Attorney General has the better argument.

Welfare and Institutions Code section 726, subdivision (c) provides: "If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court."

Welfare and Institutions Code section 726, subdivision (c) is inapplicable where, as here, the minor is not removed from the physical custody of his parent.

In *In re Ali A.* (2006) 139 Cal.App.4th 569 (*Ali A.*), this court concluded that, "[w]hen a juvenile ward is allowed to remain in his parents' custody, there is no physical confinement and therefore no need to set a maximum term of confinement. Consequently, the maximum term of confinement included in the dispositional order here is of no legal effect." (*Id.* at p. 571.) Because the minor was not prejudiced by the presence of the term, we concluded "there is no basis for reversal or remand in this case." (*Id.* at p. 574.)

The Attorney General contends the present case is “identical to the facts of” *Ali A.* and requires the same result. The minor counters that in *In re Matthew A.* (2008) 165 Cal.App.4th 537, the Court of Appeal, Second Appellate District, Division Eight, asserted that juvenile courts were continuing to specify maximum terms for minors who remained in parental custody. Concluding that prior appellate opinions had been ineffective in deterring the practice, the court struck the maximum confinement term set by the juvenile court. (*Id.* at pp. 541-542.)

We are not persuaded that correction of nonprejudicial error is the best use of time in our overworked juvenile courts. Thus, we adhere to our decision in *Ali A.* and conclude that “there is no basis for reversal or remand in this case.” (*Ali A.*, *supra*, 139 Cal.App.4th at p. 574.)

### **DISPOSITION**

The judgment is affirmed.

\_\_\_\_\_  
BUTZ, J.

We concur:

\_\_\_\_\_  
NICHOLSON, Acting P. J.

\_\_\_\_\_  
ROBIE, J.